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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

ASM Capital, LP, et al.

Plaintiffs,

v.

EDWARD H. OKUN, et al.

Defendants.

Case No. C 11-04825 PJH

Assigned to the Hon. Phyllis Hamilton

**STIPULATION TO STAY CASE
AGAINST THE CORDELL
DEFENDANTS PENDING
CONSUMMATION OF CLASS
SETTLEMENT; [~~PROPOSED~~] ORDER**

The ASM Plaintiffs and the Cordell Defendants¹ (collectively, “the Parties”) hereby stipulate to stay this matter as follows:

09-2079

Another action entitled *Hunter, et al. v. Citibank, et al.*, Case No. C ~~09-2795~~ JW (“*Hunter II*”) is pending before Judge James Ware. *Hunter II*, which was filed as a class action and names the Cordell Defendants, and alleges the same facts as those alleged in the above-captioned matter, *ASM Capital v. Edward Okun, et al.*, Case No. C 11-4825 PJH (hereinafter, “*Hunter III*”).

This case, *Hunter III*, was filed against the Cordell Defendants after Judge Ware denied

¹ The Cordell Defendants include: CORDELL FUNDING, LLLP, a Florida Limited Liability Limited Partnership; CORDELL CONSULTANTS, INC., a New York Corporation; CORDELL MONEY PURCHASE PLAN, a QUALIFIED RETIREMENT PLAN TRUST; CORDELL CONSULTANTS, NEW YORK, LLC, a New York Limited Liability Company; ROBIN RODRIGUEZ, an individual and such other Cordell entities controlled by Robin Rodriguez.

1 class certification in *Hunter II*. After denying class certification based on a contested motion, the
 2 Plaintiffs in *Hunter II* and the Cordell Defendants entered into a settlement agreement, which
 3 conditions the settlement on class certification.

4 On December 2, 2011, the Plaintiffs in *Hunter II* filed a Motion for Preliminary Approval
 5 of their settlement with the Cordell Defendants (see Case No. C ~~09-2795~~ 09-2079, Dkt. 587). If the Court
 6 grants preliminary approval of the settlement, if there are no opt outs, and the Court grants final
 7 approval of the settlement, then the *Hunter II* case will be concluded. The conclusion of the
 8 *Hunter II* case will also conclude this case (*Hunter III*) as to the Cordell Defendants.

9 Therefore, in the interest of saving the court's resources, the Parties request that this
 10 matter, as to the Cordell Defendants only, be stayed until the conclusion of the settlement
 11 approval process. If the settlement is consummated, this case will be dismissed as to the Cordell
 12 Defendants. If the settlement is not consummated, the Parties shall notify the Court, at which
 13 time the Parties will request the Court to lift the stay.

14
 15 IT IS SO STIPULATED.

16 HOLLISTER & BRACE

17
 18 Dated: January 31, 2012

By: /s/

Robert L. Brace

Attorneys for the ASM Plaintiffs

21 GILBERT PA | YARNELL PLLC

22
 23 Dated: January 31, 2012

By: /s/

Irwin Gilbert

Attorneys for the Cordell Defendants

DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, Robert L. Brace, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the other signatory listed below. I declare under penalty of perjury under the laws of the United States of America that the foregoing declaration is true and correct.

Executed on January 31, 2012, in Santa Barbara, California.

HOLLISTER & BRACE

By: _____/s/

ROBERT L. BRACE
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Attorneys for the ASM Plaintiffs

[PROPOSED] ORDER

Pursuant to the stipulation entered into by the Parties, and good cause appearing, it is
HEREBY ORDERED that this litigation is stayed against the Cordell Defendants.

IT IS FURTHER ORDERED that the Parties will notify the Court when the settlement in
the *Hunter II* class action (Case No. C 09-2795 JW) has been finalized, at which time the case
against the Cordell Defendants will be dismissed. If the settlement is not consummated, then the
stay will be lifted and the matter shall proceed against the Cordell Defendants.

IT IS SO ORDERED.

2/2/12

